

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

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MALIBU MEDIA, LLC,	:
	:
	: Civil Action No. 4:15-cv-2281
Plaintiff,	:
	: <i>Chief Judge Connor</i>
vs.	:
	:
JOHN DOE subscriber assigned IP address	:
71.58.216.197,	:
	:
Defendant.	:
	:

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**DEFENDANT’S MOTION TO STRIKE THIRD-PARTY DEFENDANT
COLETTE PELISSIER-FIELD’S MOTION TO DISMISS AND TO
DISQUALIFY CHRISTOPHER FIORE, ESQ., AS COLETTE PELISSIER-
FIELD’S COUNSEL**

Defendant respectfully moves this Court to enter an Order Striking Third – Party Defendant Colette Pelissier-Field’s Motion to Dismiss and to Disqualify Christopher Fiore, Esq., as Colette Pelissier-Field’s counsel in these proceedings. Defendant offers in support and avers as follows:

1. On November 25, 2015, Plaintiff, Malibu Media, LLC., filed suit against Defendant, alleging copyright infringement. (Doc. # [1](#))
2. On February 18, 2016, Defendant filed a Motion to Disqualify Plaintiff’s counsel, Christopher Fiore, because the evidence suggested that attorney Fiore was complicit in fraudulent and/or deceptive business practices.

3. Defendant's motion was denied as untimely. (Doc. # [21](#))
4. On July 7, 2016, Defendant filed a counterclaim against Plaintiff, as well as Third-party Complaints against Colette Pelissier-Field, Brigham Field, and Christopher Fiore, Esq. (Doc # [34](#)).
5. On August 18, 2016, Christopher Fiore, Esq., filed the complained of Motion to Dismiss on behalf of Colette Pelissier-Field. (Doc # [40](#)).
6. Christopher Fiore, Esq., has not entered his appearance on behalf of Colette Pelissier-Field and already represents another party in these proceedings.
7. Christopher Fiore, Esq., is himself a named Third-party Defendant in the instant action. While he may defend himself in the Third-party claims, he has a conflict of interest in representing the interest of Colette Pelissier-Field as well as his own interest.
8. Christopher Fiore, Esq., had knowledge that he was named as a defendant prior to filing the complained of motion to dismiss.
9. Significantly, Malibu Media, LLC., has recently brought an action against its former lead counsel, Keith Lipscomb, Esq., whom was in charge of copyright litigation enterprise. (Malibu Media LLC v. Lipscomb Eisenberg and Baker, PL et al, CACD 2:16-cv-04715 Doc # [1](#)).

10. Malibu Media is partially owned by Colette Pelissier-Field.

11. Malibu Media, LLC., allege claims for, *inter alia*, Professional Negligence, Breach of Fiduciary Duty, and violations of Florida Business and Professions Code §§ 17200 et. seq. [Id.](#)

12. More specifically, attorney Lipscomb is accused of failing to segregate his client's funds, failing to pay his client proceeds from the copyright litigation enterprise, and failure to have a written representation and fee agreements. [Id.](#)

13. Attorney Lipscomb was the lead counsel for Plaintiff until June of 2016.

14. Attorney Lipscomb is listed as co-counsel to attorney Fiore on many of the Pennsylvania actions filed on behalf of Plaintiff.

15. Attorney Fiore acts as local counsel for Malibu Media, and is supervised by, and acts at the direction of attorney Lipscomb. ([See](#) PAED 2:12-cv-02084-MMB Doc # 34). The relationship was such that attorney Lipscomb's office staff even signed attorney Fiore's name to documents. [Id.](#) at page 3, ¶ 3).

16. Evidence presented by Malibu Media, LLC., in its Complaint against attorney Lipscomb appear to verify some of the allegations made by Defendant against attorney Fiore, including the organization and

command structure of the enterprise which purpose was to act as a for-profit business enterprise. (CACD 2:16-cv-04715 Doc # [1](#)).

17. Upon information and belief, the litigation proceeds previously collected by attorney Fiore are also the same client funds now in dispute in the aforementioned litigation.

18. Furthermore, Attorney Lipscomb's malpractice insurance carrier has filed an action to rescind its coverage due to his false statements. (Markel Insurance Company v LEB, M. Keith Lipscomb, and Malibu Media, [FLSD 16-cv-23234](#), Doc. #[1](#)). Should attorney Lipscomb not be able to fulfill his liability to Malibu Media, it will come looking for it from attorney Lipscomb's co-counsels.

19. It is reasonably foreseeable that attorney Fiore will end up being sued by Malibu Media, LLC., like his co-counsel and supervisor, Keith Lipscomb, Esq.,

20. It is also reasonably believed that attorney Fiore may have filed the instant action without communicating or seeking the approval of Plaintiff and/or conveying settlement offers to Plaintiff as is required.

21. The court, at its discretion, may disqualify an attorney for not only an actual conflict but by a showing of a serious potential for conflict. Wheat v. United States, 486 U.S. 153, 164, 108 S. Ct. 1692, 1700 (1988).

22. The circumstances at hand are fraught with both actual and potentially serious conflicts which would disqualify attorney Fiore from representing Colette Pelissier-Field throughout these proceedings.

23. The proceedings will be significantly delayed and Defendant will be prejudiced with appealable issues amongst Plaintiff and the Third-party Defendants due to the conflicts.

WHEREFORE Defendant respectfully request this Court enter an Order Striking Colette Pelissier-Field Motion to Dismiss and disqualifying attorney Fiore from the instant action and directing Colette Pelissier-Field to file an answer within fourteen (14) days of the date of the Order.

Dated: August 24, 2016

Respectfully submitted,

/s/Aaron Brooks
Aaron Brooks PA# 207801
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CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2016, I electronically files the forgoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record through this system. An additional copies of the Motion were mailed via United States Postal System to the following parties of interest:

Colette Pelissier-Field

409 W. Olympic Blvd., Suite 501
Los Angeles, CA, 90015

Brigham Field

409 W. Olympic Blvd., Suite 501
Los Angeles, CA, 90015

Respectfully submitted,

Dated: August 24, 2016

/s/Aaron Brooks

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